

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHNNY R. THOMAS, *et al.*

Defendants.

Case No. 2:19-cv-01132-JCM-EJY

ORDER

Before the Court is Plaintiff's Motion for Leave to File Reply Papers (ECF No. 71). Plaintiff seeks leave of court pursuant to the U.S. District Court for the District of Nevada Local Rule IB 3-1(a) and LR IB 3-2(a), which allow the filing of a reply in support of an objection to a Magistrate Judge's order "only with leave of the court." Plaintiff claims a reply is appropriate here so that Plaintiff may "respond to arguments that Defendants ... made for the first time and cases they cited for the first time in their response papers" ECF No. 71 at 1. More specifically, Plaintiff states that it must be allowed to respond to Defendants' analogy of interview notes taken by SEC investigators to interview notes taken by FBI investigators, Defendants citations to non-SEC cases including some outside the Ninth Circuit, and Defendants characterization of the Magistrate Judge's redactions of SEC notes because Defendants have not seen those redactions. *Id.* at 1-2.

After reviewing the parties' respective arguments presented in the Objection (ECF No. 65) and Response (ECF No. 68), the Court finds that Defendants' arguments respond to Plaintiff's Objection; Defendants do not present new arguments. When arguments made in opposition to an objection are in response to the arguments in that objection, a reply is not warranted. *See Panliant Financial Corp. v. ISEE3D, Inc.*, Case No. 2:12-cv-01376-PMP-CHW, 2014 WL 3592718, at *8 (D. Nev. July 21, 2014 (when a filing responds to arguments raised in a motion or opposition, the filing does not raise new arguments); *In re Lake at Las Vegas Joint Venture, LLC, et al.*, Case No. 2:11-cv-1346-JAD-PAL, 2014 WL 70225, at *1 (D. Nev. Jan. 8, 2014) (same). *See also Quintero*

1 *v. Bisbee*, Case No. 3:16-cv-00673-MMD-CBC, 2019 WL 4276999, at *4 (D. Nev. Sept. 10, 2019)
 2 (reply to an objection is unnecessary given Plaintiff's previous opportunity to brief the issues).

3 The Court notes that Defendants did not characterize the Magistrate Judge's redactions, but
 4 rather spoke of the process to which the parties agreed and Plaintiff's opportunity to seek review of
 5 the Court's proposed redactions before release of any portion of the notes to Defendants. ECF No.
 6 68 at 4:9-18; 8:7-14. As for Defendants' reference to FBI investigators, this appears in a single
 7 footnote in which Defendants state that "an FBI agent's interview notes would routinely be
 8 produced." *Id.* at 3 n.1. Finally, the reviewing Court is more than capable of analyzing,
 9 distinguishing or relying on case law to which the parties' cite.

10 In sum, Plaintiff fails to demonstrate that Defendants raise new arguments or that if Plaintiff
 11 is denied the inability to respond to Defendants, Plaintiff would be prejudiced in any way. Plaintiff
 12 has had a full opportunity to argue why it believes the Magistrate Judge's Order is wrong and must
 13 be overturned. ECF No. 65 at 9-15. And, Plaintiff, like Defendants, cites substantial case law from
 14 courts within and outside of the Ninth Circuit. *Id.* While Plaintiff has not responded to the single
 15 footnote by Defendants referencing FBI investigators, this citation does not comprise a new
 16 argument as it simply points out a distinction between notes taken by FBI investigators, who are
 17 non-lawyers, and SEC investigators, who are lawyers.

18 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File Reply
 19 Papers (ECF No. 71) is DENIED.

20 DATED this 25th day of January, 2021.

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 22 ELAYNA J. YOUCHAK
 23 UNITED STATES MAGISTRATE JUDGE
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